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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,677	06/25/2001	SushilKumar Gangadharan	112056-0009	9968
24267	7590	06/13/2006	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			NGUYEN, DUSTIN	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/888,677	Applicant(s) GANGADHARAN, SUSHILKUMAR	
	Examiner Dustin Nguyen	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-41 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>attached</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Claims 1-41 are presented for examination.

Allowable Subject Matter

2. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 112

3. Claims 34-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The term "substantially" in claims 34-36 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 9-11, 16, 30 and 32 are rejected under U.S.C. 102(e) as being anticipated by Mankude et al. [US Patent No 6,795,866].

7. As per claim 1, Mankude discloses the invention substantially as claimed including a method for uniformly distributing data transmitted by a server over a plurality of underlying links of an aggregate within a computer network comprising [i.e. forwards the packets to various nodes within clustered computing system based upon load balancing policies and other considerations] [col 4, lines 10-19 and lines 50-53]:

defining a unit of data as a datagram [i.e. packet] [Abstract; and col 1, lines 46-50];

apportioning each datagram into at least one fragment at the server [i.e. divide packet into fragments for transmission] [Figure 3; and col 1, lines 54-56];

associating each fragment to an underlying link of the aggregate [i.e. keep track of how packet fragments are associated with destination nodes] [col 1, lines 62-64; col 4, lines 53-col 5, lines 9] on the basis of an Internet protocol (IP) identifier (ID) of each datagram and a number

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of active links of the aggregate [i.e. the system uses a packet identifier from the fragment to look up an entry for the packet within a packet forwarding data structure] [Abstract; col 2, lines 11-27 and lines 57-63]; and

transmitting the fragment over its associated underlying link from the server to the computer network [i.e. forwards the fragments to destination nodes] [Abstract; col 4, lines 48-53; and col 5, lines 40-45].

8. As per claim 9, Mankude discloses loading at least one data buffer of the server with the at least one fragment; fetching the fragment from the data buffer; and loading at least one queue of the server with the fragment, the queue associated with the underlying link [i.e. packet fragments can queue up in holder object] [Figure 4; and col 6, lines 37-52].

9. As per claim 10, it is rejected for similar reasons as stated above in claim 1. Furthermore, Mankude discloses a processor, a memory coupled to the processor and having locations addressable by the processor, and an operating system resident in the memory locations and executed by the processor [i.e. server nodes] [Figure 2; and col 4, lines 39-47], the operating system configured to implement a modified load balancing technique [col 1, lines 33-35; col 4, lines 50-53; and col 5, lines 31-39].

10. As per claim 11, it is rejected for similar reasons as stated above in claim 1.

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11. As per claim 16, it does not teach or define any new limitations above claim 1 and therefore is rejected for similar reasons.

12. As per claim 30, it is rejected for similar reasons as stated above in claim 1. Furthermore, Mankude discloses transmitting all of the one or more fragments associated with the IP ID over the network link [i.e. ensure that packets belonging to the same TCP connection or UDP instance are sent to the same service instance] [col 1, lines 52-54; and col 4, lines 15-19].

13. As per claim 32, it is rejected for similar reasons as stated above in claims 10 and 30.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 2, 3, 12, 13, 17 and 18 are rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of Westberg [US Patent No 6,791,982].

16. As per claim 2, Mankude does not specifically disclose wherein the step of associating comprises the step of producing a result representing a remainder upon dividing the IP ID by the

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number of active links. Westberg discloses wherein the step of associating comprises the step of producing a result representing a remainder upon dividing the IP ID by the number of active links [i.e. modulo] [col 8, lines 37-49]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Mankude and Westberg because Westberg's teaching would allow for segmentation for transmission of large data packets to increase the speed of transferring information.

17. As per claim 3, Mankude discloses wherein the step of associating further comprises:
rotating the fragments of each datagram among all the underlying links to thereby ensure that all fragments having the same IP ID are provided to the same physical link of the aggregate [i.e. ensure that packets originating from the same client are directed to the same server] [col 1, lines 52-54; and col 4, lines 15-19].

Mankude does not specifically disclose

calculating the IP ID of each datagram in a sequential manner.

Westberg discloses

calculating the IP ID of each datagram in a sequential manner [Figure 4; and col 8, lines 14-36].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Mankude and Westberg because Westberg's teaching of sequential manner would allow receiving node to detect lost segments [Westberg, col 8, lines 31-33].

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18. As per claims 12 and 13, they are rejected for similar reasons as stated above in claims 2 and 3.

19. As per claims 17 and 18, they are rejected for similar reasons as stated above in claims 2 and 3.

20. Claims 4, 14, 19 are rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of Narad et al. [US Patent No 6,157,955].

21. As per claim 4, Mankude does not specifically disclose wherein the step of associating comprising:

logically combining the IP ID with a predetermined mask to produce a quantity;

right shifting the quantity a predetermined number of places; and

establishing a threshold at which a group of data is forwarded to each underlying link of the aggregate.

Narad discloses wherein the step of associating comprises:

logically combining the IP ID with a predetermined mask to produce a quantity (Col. 37, lines 2-6; Col. 91, lines 51-56);

right shifting the quantity a predetermined number of places (Col. 42, lines 42-48); and

establishing a threshold at which a group of data is forwarded to each underlying link of the aggregate (Col. 6, lines 56-62; Col. 8, lines 21-29).

It would have been obvious to one of ordinary skill in the art at the time of invention was made to combine the teaching of Mankude and Narad because they both deal with processing data in-order to transmit information through a network of communication links. Furthermore, the teaching of Narad to combine the IP ID with a predetermined mask, then to right shift the combined value a predetermined number of places while establishing a threshold at which a group of data is forwarded to each underlying link accelerates the association of a datagram and increases efficiency with the system Boucher discloses.

22. As per claims 14 and 19, they do not teach or define any new limitations above claim 4 and therefore is rejected for similar reasons.

23. Claims 5, 15 and 20 are rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of Narad et al. [US Patent No 6,157,955], and further in view of Westberg [US Patent No 6,791,982].

24. As per claim 5, it is rejected for similar reasons as stated above in claims 2 and 4. Furthermore, Narad discloses a combined quantity of IP ID and a predetermined mask (Col. 37, lines 2-6; Col. 91, lines 51-56); and right shifting the combined quantity a predetermined number of places (Col. 42, lines 42-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Mankude, Narad and Westberg because they each discuss methods process a datagram or packet in-order to distribute the data

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over a network through a plurality of links. Furthermore, the teaching of Narad to combine the quantity of the right shifted IP ID and predetermined mask in connection with Takagi's teaching to produce a result by dividing the combined quantity by the number of links allows for data to be transmitted more efficiently and uniformly through grouped underlying links within a computer network.

25. Claims 15 and 20 do not teach or define any new limitations above claim 5 and therefore is rejected for similar reasons.

26. Claims 21, 22, 27-29, 31, 33-37 are rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of McCullough et al. [US Patent Application No 2002/0010866].

27. As per claim 21, it is rejected for similar reasons as stated above in claim 1. Furthermore, Mankude does not specifically disclose a round robin policy based. McCullough discloses a round robin policy based [i.e. distribute fragment on each available link in a round robin fashion] [paragraph 0079]. It would have been obvious to combine the teaching of Mankude and McCullough because McCullough's teaching of round robin would allow providing the best aggregate throughput [paragraph 0079].

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28. As per claim 22, McCullough discloses a number of links in the plurality of links [i.e. multiple links] [Figure 4; paragraphs 0002 and 0004].

29. As per claim 27, it is rejected for similar reasons as stated above in claim 10.

Furthermore, McCullough discloses the operating system further configured to include a virtual interface process [i.e. virtual circuits] [Figure 1; paragraphs 0055 and 0099]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Mankude and McCullough because McCullough's teaching of virtual circuit would allow one network connection so there is a large cost saving compared with multiple dedicated circuits [McCullough, paragraph 0007].

30. As per claims 28 and 29, they are rejected for similar reasons as stated above in claim 21.

31. As per claim 31, it is rejected for similar reasons as stated above in claim 21.

32. As per claim 33, it is rejected for similar reasons as stated above in claim 21.

33. As per claim 34, Mankude does not specifically disclose apportioning data substantially equally over the plurality of underlying links of the aggregate within the computer network. McCullough discloses apportioning data substantially equally over the plurality of underlying links of the aggregate within the computer network [i.e. the packet load must be distributed equally over each IVCs] [paragraphs 0056 and 0057]. It would have been obvious to a person

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skill in the art at the time the invention was made to combine the teaching of Mankude and McCullough because McCullough's teaching of distributing the load equally would allow to prevent unbalance condition [McCullough, paragraph 0056].

34. As per claims 35 and 36, they are rejected for similar reasons as stated above in claim 34.

35. As per claim 37, it is rejected for similar reasons as stated above in claim 22.

36. Claims 23, 24, 38 and 39 are rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of McCullough et al. [US Patent Application No 2002/0010866], and further in view of Westberg [US Patent No 6,791,982].

37. As per claim 23, Mankude and McCullough do not specifically disclose wherein the step of associating comprises the step of producing a result representing a remainder upon dividing the IP ID by the number of active links. Westberg discloses wherein the step of associating comprises the step of producing a result representing a remainder upon dividing the IP ID by the number of active links [i.e. modulo] [col 8, lines 37-49]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Mankude, McCullough and Westberg because Westberg's teaching would allow for segmentation for transmission of large data packets to increase the speed of transferring information.

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38. As per claim 24, Mankude discloses wherein the step of associating further comprises:

rotating the fragments of each datagram among all the underlying links to thereby ensure that all fragments having the same IP ID are provided to the same physical link of the aggregate [i.e. ensure that packets originating from the same client are directed to the same server] [col 1, lines 52-54; and col 4, lines 15-19].

Mankude and McCullough do not specifically disclose

calculating the IP ID of each datagram in a sequential manner.

Westberg discloses

calculating the IP ID of each datagram in a sequential manner [Figure 4; and col 8, lines 14-36].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Mankude, McCullough and Westberg because Westberg's teaching of sequential manner would allow receiving node to detect lost segments [Westberg, col 8, lines 31-33].

39. As per claims 38 and 39, they are rejected for similar reasons as stated above in claims 23 and 24.

40. Claims 25, 26 and 40 are rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of McCullough et al. [US Patent Application No 2002/0010866], and further in view of Narad et al. [US Patent No 6,157,955].

41. As per claim 25, Mankude and McCullough do not specifically disclose wherein the step of associating comprising:

logically combining the IP ID with a predetermined mask to produce a quantity;
right shifting the quantity a predetermined number of places; and
establishing a threshold at which a group of data is forwarded to each underlying link of the aggregate.

Narad discloses wherein the step of associating comprises:

logically combining the IP ID with a predetermined mask to produce a quantity (Col. 37, lines 2-6; Col. 91, lines 51-56);

right shifting the quantity a predetermined number of places (Col. 42, lines 42-48); and
establishing a threshold at which a group of data is forwarded to each underlying link of the aggregate (Col. 6, lines 56-62; Col. 8, lines 21-29).

It would have been obvious to one of ordinary skill in the art at the time of invention was made to combine the teaching of Mankude, McCullough and Narad because they both deal with processing data in-order to transmit information through a network of communication links. Furthermore, the teaching of Narad to combine the IP ID with a predetermined mask, then to right shift the combined value a predetermined number of places while establishing a threshold at which a group of data is forwarded to each underlying link accelerates the association of a datagram and increases efficiency with the systems Mankude and McCullough disclosed.

42. As per claim 26, it is rejected for similar reasons as disclosed above in claims 2 and 21.

43. As per claim 40, it is rejected for similar reasons as stated above in claim 25.

44. Claim 41 is rejected under U.S.C. 103(a) as being unpatentable over Mankude et al. [US Patent No 6,795,866], in view of McCullough et al. [US Patent Application No 2002/0010866], and further in view of Narad et al. [US Patent No 6,157,955] and Westberg [US Patent No 6,791,982].

45. As per claim 41, Mankude, McCullough and Narad do not specifically disclose wherein the step of associating comprises the step of producing a result representing a remainder upon dividing the IP ID by the number of active links. Westberg discloses wherein the step of associating comprises the step of producing a result representing a remainder upon dividing the IP ID by the number of active links [i.e. modulo] [col 8, lines 37-49]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Mankude, McCullough, Narad and Westberg because Westberg's teaching would allow for segmentation for transmission of large data packets to increase the speed of transferring information.

46. Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

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47. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is 571-272-3971. The examiner can normally be reached on Monday - Friday 8:30 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3970.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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